
Shaines & McEachern
Professional Association, Attorneys



SDMS DocID 559095

The G&M Law Group
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March 2, 1990

U.S. Environmental Protection Agency
Mr. Steven J. Calder
Waste Management Division
J.F.K. Federal Building, HSN-CAN5
Boston, MA 02203

Superfund Records Center
SITE: Coakley
BREAK: 11.9
OTHER: 559095

Re: Coakley Landfill
North Hampton and Greenland, New Hampshire
PRP: Brady Ford Sales, Inc.

Dear Mr. Calder:

This firm has been retained to represent Brady Ford Sales, Inc., regarding the above-captioned matter. This letter is in response to the February 2, 1990, Notice of Potential Liability directed to Brady Ford Sales, Inc., in which Brady Ford Sales, Inc., is alleged to be a potentially responsible party for the disposal of hazardous substances at the Coakley Landfill site. The Notice requests certain information pursuant to §104(e) of CERCLA, 42 U.S.C. §9604(e), and §3007 of the RCRA, 42 U.S.C. §6927. The Notice also demands that Brady Ford Sales, Inc., pay approximately \$1,225,000.00, plus interest, in order to reimburse the EPA for past costs, as well as to assume responsibility for future costs incurred by the EPA at the site.

As an initial matter, and as we informed you in our February 28, 1990 letter, Brady Ford Sales, Inc., was legally dissolved under New Hampshire law on June 30, 1989. Arthur F. Brady, Jr., who was the sole shareholder and president of Brady Ford Sales, Inc., passed away on September 27, 1989. For these reasons we believe that Brady Ford Sales, Inc., should be removed from the list of potentially responsible parties, and if this step is not voluntarily taken by the EPA, we will undertake affirmative action to have Brady Ford Sales, Inc., so removed. As a practical matter, you should be aware that there are no assets remaining of Brady Ford Sales, Inc.

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Until Brady Ford Sales, Inc., is removed from the list of potentially responsible parties, of course, we will cooperate with the EPA in this matter. To that end, we have reviewed the Information Request which was set forth as Attachment A to the Notice of Potential Liability. Our investigation of the information requested in Attachment A was unavoidably limited because of the death of Mr. Brady. However, we have reviewed Attachment A with his widow, Mrs. Mary Jane Brady, and with Mr. Richard York, the comptroller of Brady Ford Sales, Inc., from 1969 to 1979 and from 1982 to 1985.

As to question 1(a), regarding the segregation of wastes before disposal, and the handling and disposing of the same after segregation, it appears that the general practice of Brady Ford Sales, Inc., during the time period in question (1972 to 1985, inclusive) was to separate waste oil, tires and scrap metal from the ordinary "dumpster trash." The waste oil was held in a special container and would be picked up periodically by the Wentworth Greenhouse; apparently the Greenhouse paid for this oil and burned the same in order to heat the Greenhouse. The scrap metal and the tires were picked up by an individual or entity whose identity is not known. The method, nature and location of the transportation and ultimate disposal of the scrap metal and tires are also unknown. The dumpster trash, which would be primarily the type of rubbish generated from a business office, was deposited in a dumpster at Brady Ford Sales, Inc. The dumpster was emptied and the contents transported on a regular basis by an independent contractor. We are unable to identify with particularity the independent contractor, but believe it may have been either Browning-Ferris Industries, Great Bay Disposal (which we believe was later acquired by Browning-Ferris Industries), or H.E. Bouffard Company. We have no information regarding the details of the transportation or disposal of the dumpster trash after it left Brady Ford Sales, Inc.'s property.

As to question 1(b), regarding any changes in waste handling and disposal practices during 1972 to 1985, we have no information at this time regarding any such changes.

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As to question 1(c), regarding documentation concerning waste handling or disposal practices and the identity of persons who might have knowledge of such practices, we do not have possession or control of any such documentation, and, indeed, are unsure if any such documentation even exists. It is possible that some documentation, especially for the later years of the time period in question, may still be at Ocean Ford, Inc., Spaulding Turnpike, Portsmouth, New Hampshire; Ocean Ford, Inc., acquired the car dealership from Brady Ford Sales, Inc., and occupies the same building. As to other individuals who may have knowledge of the waste handling or disposal practices, we believe that the following individuals (in addition to those already identified) may have some knowledge:

1. Frank Montmarquet (former Service Manager of Brady Ford Sales, Inc.), c/o Hampton Ford, Lafayette Road, Portsmouth, New Hampshire.

2. Clifford Donahue (former Parts Manager of Brady Ford Sales, Inc.), c/o Ocean Ford, Inc., Spaulding Turnpike, Portsmouth, New Hampshire.

3. John Traynor (former Service Manager of Brady Ford Sales, Inc.), address unknown.

4. Robert Betz (former Bodyshop Manager of Brady Ford Sales, Inc.), address unknown.

As to question 2, regarding the disposal of industrial waste or liquid waste at the Coakley Landfill after or before regular business hours, we have no knowledge of any such disposal. It is highly unlikely that any employee of Brady Ford Sales, Inc., ever disposed of any industrial waste or liquid waste at the Coakley Landfill after, before, or even during regular business hours. Further, we do not know of any such acts by any other person or entity.

As to question 3, regarding the identity of all entities which transported for disposal any waste, as previously stated the following entities may have done so:

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1. Browning-Ferris Industries, Corporate Office,
Ashford Place, 14701 St. Mary's Street, Houston, Texas
77079.

2. H.E. Bouffard Company, P.O. Box 314, Kittery,
Maine 03904.

3. Great Bay Disposal, Portsmouth, New Hampshire
03801.

We have attempted to provide a complete and accurate response to your Information Request. We respectfully reserve the right to supplement or amend this response upon further investigation.

We now will discuss your demand that Brady Ford Sales, Inc., pay \$1,225,000.00 in costs, as well as accrued interest, and pay for future costs incurred for response activities at the Coakley Landfill. Based upon the foregoing information, we do not believe that Brady Ford Sales, Inc., created, handled or disposed of hazardous wastes, or ever undertook any action regarding waste disposal that was not legally correct and environmentally sound. Indeed, it was this type of concern that earned Brady Ford Sales, Inc., and Mr. Brady personally, outstanding reputations in the Seacoast community. For these reasons, and due to the dissolution of Brady Ford Sales, Inc., we cannot now or in the future agree to the demands for payment. Of course, without admitting or acknowledging liability and without prejudice to any possible rights and defenses, we will cooperate with the EPA and with the other allegedly potentially responsible parties. To that end, and until Brady Ford Sales, Inc., is removed from the list of potentially responsible parties, we would request that all communications regarding this matter directed to Brady Ford Sales, Inc., be directed to this office.

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Finally, we respectfully request that you provide us with copies of all documents and information which support your allegation that Brady Ford Sales, Inc., is a potentially responsible party in this matter. We also respectfully request all information available to the EPA which establishes that there is an imminent and substantial endangerment to the public health or welfare and information and documents showing what steps the EPA (or any other party or agency) has taken or plans to take to address this situation. If for any reason you are unwilling to voluntarily supply this information to us, please let us know so that we may take whatever steps are necessary (including a request for the information under the Freedom of Information Act) to safeguard the interests of Brady Ford Sales, Inc.

Very truly yours,
SHAINES & MCEACHERN, P.A.

By: 

Robert A. Shaines

RAS/jls

cc: Mrs. Mary Jane Brady
Mr. Richard York